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# HOUSE BILL No. 1498

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-14.6.

**Synopsis:** Licensing of electricians. Establishes the electricians commission. Requires electrical contractors and journeyman electricians to obtain a license from the commission. Establishes testing requirements to obtain a license. Establishes rules and fees governing electricians to be adopted by the commission, with license suspension and revocation possible for noncompliance. Allows political subdivisions to enact regulations. Forbids licensure by political subdivisions. Establishes the electricians recovery fund consisting of fees and surcharges collected by the commission. Allows recovery from the fund by an aggrieved party up to \$30,000 per judgment, with a lifetime limit of \$75,000 with respect to an individual licensee. Requires suspension of a judgment debtor's license until the fund has been repaid with interest for payments made to an aggrieved party. Provides for one year temporary license without testing to persons who have worked as an electrician for at least four years. Suspends disciplinary actions and sanctions under the law until January 1, 2004.

**Effective:** Upon passage; July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1498

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 25-14.6 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

### **ARTICLE 14.6. ELECTRICIANS**

#### **Chapter 1. Definitions**

##### **Sec. 1. As used in this article:**

###### **(1) "Electrical contracting" means:**

**(A) advertising, negotiating, submitting a bid, or giving an offer to provide electrical construction for compensation;**

**(B) accepting an award of a contract or an offer to provide electrical construction for compensation; or**

**(C) managing the delivery of electrical construction for compensation.**

**The term does not include the construction, installation, alteration, repair, maintenance, or service of a fire alarm or a burglar alarm.**

###### **(2) "Electrical contractor" means an individual who:**



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(A) assumes responsible charge, supervision, or direction of persons engaged in electrical contracting; or

(B) engages in, offers to engage in, advertises, or otherwise represents that the individual is permitted or qualified to engage in the design of, planning of, superintending of, contracting for, or responsible charge of electrical contracting.

The term does not include a journeyman electrician or an electrician's assistant.

(3) "Journeyman electrician" means a person who engages or offers to engage in electrical construction as an occupation or trade under the supervision, direction, and responsibility of a licensed electrical contractor.

(4) "Examination" refers to the statewide electricians examination established by IC 25-14.6-6.

(5) "Executive director" refers to the executive director of the fire and building services department.

(6) "Fund" refers to the electricians recovery fund established by IC 25-14.6-16-1.

(7) "Maintenance person" means a person who is employed on a permanent basis to keep the premises of a business establishment in good repair.

(8) "Contracting" means, except as exempted in this chapter, engaging in a business as a contractor.

(9) "Person" means an individual, except in the case of an electrical contractor, in which case the term also includes the partners or members of a partnership, limited partnership, or any form of unincorporated enterprise owned by two (2) or more persons, and as applied to a corporation in addition to the corporate entity means the officers or directors and employees of the corporation.

(10) "Commission" means the electricians commission established by IC 25-14.6-2-1.

(11) "License" means a certificate issued by the commission that confers upon the holder the privilege to act as an electrical contractor or a journeyman electrician.

(12) "Farmstead" means a farm dwelling together with other buildings, structures, equipment, wiring, and other electrical materials and supplies located upon a parcel of real estate used primarily for agricultural purposes located outside the corporate limits of a municipality.

(13) "Licensing agency" means the Indiana professional

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licensing agency established by IC 25-1-6-3.

(14) "Apprentice electrician" means an individual who:

(A) is learning the electrician's trade; and

(B) is under the direction and immediate supervision of a licensed electrical contractor or a licensed journeyman electrician.

(15) "Registration" means the granting of a certificate by the commission that authorizes an individual to act as an apprentice electrician.

#### Chapter 2. Electricians Commission

Sec. 1. The electricians commission is established. The commission shall administer and enforce this article.

Sec. 2. (a) The commission consists of six (6) members appointed by the governor. Each member appointed must be a resident of Indiana. Two (2) of the members must be actively engaged in the electrical contracting business for at least five (5) years immediately before appointment or shall have had ten (10) years experience in the electrical contracting business. Two (2) of the members must be persons who for not less than five (5) years immediately before appointment have been employed as journeymen electricians. One (1) member must be the executive director of the fire and building services department or a member of the director's professional staff. One (1) member, appointed to represent the general public, may never have been associated with electrical construction in any way other than as a consumer. The term of all members of the commission is for three (3) years and until their successors are appointed and qualified.

(b) Members appointed by the governor to fill vacancies shall hold office for the unexpired term. Not more than four (4) members of the same political party may serve on the commission. No person, other than the representative of the state fire and building services department, shall act as a member of the commission while holding another elective or appointive office, either state or federal.

Sec. 3. The members of the commission shall receive no salary, but are entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 4. The commission shall annually organize and select one (1) of the members as chair and one (1) of the members to serve as secretary, both to serve for a term of one (1) year. The commission,

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through the licensing agency, shall keep a record of all its proceedings, transactions, communications, official acts, and records and shall perform other duties as required by law.

**Sec. 5. The commission may do the following:**

(1) Adopt rules under IC 4-22-2 for its guidance and for the regulation of its business and procedure consistent with this chapter.

(2) Enter into contracts and authorize expenditures as its duties require, subject to this chapter and IC 25-1-6.

(3) Do all things necessary for carrying this article into effect.

**Sec. 6. The secretary shall call all meetings of the commission as directed by the chair or upon request in writing by two (2) members, at such time and places within Indiana as the commission business requires. Sufficient notice shall be given to permit members to attend all meetings. The presence of four (4) members of the commission in attendance at a commission meeting subject to notice as herein required constitutes a quorum for the transaction of commission business. Meetings of the commission may be held under written waiver of notice signed by all the members of the commission. A record shall be kept of all proceedings at meetings and of the vote taken on each act or transaction of the commission, and a majority vote of all members is required to bind the commission.**

**Sec. 7. (a) The Indiana department of administration shall provide office space, furniture, and necessary supplies and the office files, records, and property of the commission.**

**(b) The licensing agency shall provide staff to assist the commission.**

### **Chapter 3. License Required for Electrical Contractor and Journeyman Electrician**

**Sec. 1. It is unlawful for any person to act in the capacity of a electrical contractor or journeyman electrician without first obtaining a license as an electrical contractor or journeyman electrician from the commission. This chapter does not apply to helpers, laborers, registered apprentices, and other employees of an electrical contractor or journeyman electrician who do not in any manner hold themselves out to the public as being electricians.**

**Sec. 2. (a) Except as otherwise provided in this chapter, any individual at least eighteen (18) years of age who resides in Indiana and any corporation that satisfies the further requirements of this chapter may be licensed by the commission as an electrical contractor. Except as otherwise provided by this chapter, any**



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individual at least eighteen (18) years of age may be licensed by the commission as journeyman electrician.

(b) Any person who desires to be licensed as an electrical contractor or journeyman electrician is eligible to be licensed upon the successful completion of the examination provided for in IC 25-14.6-6.

#### Chapter 4. Qualifications for License

Sec. 1. (a) To qualify for a journeyman electrician's examination under this chapter, an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years experience in the electrical trade.

(b) To qualify for an electrical contractor's license examination under this chapter, an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years experience in the electrical trade or has worked in an electrical business under the direction of a licensed electrical contractor for at least four (4) years.

(c) An applicant who is not an Indiana resident may qualify to take an examination as follows:

(1) If the applicant holds a license from a state that does not have a reciprocity agreement with Indiana, the applicant must present the license to the commission to be eligible to take the examination.

(2) If the applicant resides in a state that does not have licensing requirements, the applicant must meet the appropriate requirements of subsection (b) before taking the examination.

(d) If the applicant holds a license in a state that has a reciprocity agreement with Indiana, the appropriate license shall be issued.

#### Chapter 5. Application for License

Sec. 1. A person wishing to be licensed as an electrical contractor or journeyman electrician must file with the commission a written application, on a form provided by the commission, that contains information the commission considers necessary to determine the qualifications of the applicant.

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1       **Sec. 2.** Each member of a firm, a partnership, or an association  
 2 who engages in the activities defined in this article as those of an  
 3 electrical contractor must be individually licensed as an electrical  
 4 contractor. In the case of a limited partnership, only the general  
 5 partner must be licensed under this article.

6       **Sec. 3.** In the case of a corporation engaged in the business of an  
 7 electrical contractor, the corporation must be licensed as an  
 8 electrical contractor and must file with the commission an  
 9 application as provided for in this chapter. A corporation may not  
 10 be licensed as an electrical contractor unless one (1) of the officers  
 11 or employees of the corporation holds a valid license as an  
 12 electrical contractor issued by the commission. Where a license is  
 13 issued to a corporation, at least one (1) officer or employee of the  
 14 corporation must be:

- 15           (1) licensed as an electrical contractor;
- 16           (2) designated in the application; and
- 17           (3) named in the license.

18       **Sec. 4.** An officer or employee of a corporation desiring to act as  
 19 an electrical contractor in connection with the business of the  
 20 corporation must obtain a separate electrical contractor's license  
 21 in the officer's or employee's own name.

22       **Sec. 5.** An application must be signed by the applicant or the  
 23 applicant's authorized officer or officers. The applicant must state  
 24 that the applicant has not been convicted of:

- 25           (1) an act that would constitute a ground for disciplinary  
 26 sanction under IC 25-1-11; or
- 27           (2) a felony that has a direct bearing on the applicant's ability  
 28 to practice competently.

29       **Sec. 6.** A business that provides electrical services and is  
 30 required to file a certificate of assumed business name under  
 31 IC 23-15-1 must register the name, address, and telephone number  
 32 of the business with the commission.

#### 33       **Chapter 6. Investigation of Application, Examination, and** 34 **Issuance of License**

35       **Sec. 1.** Upon the filing of an application, the commission may  
 36 investigate the statements contained therein and, if it finds the  
 37 statements to be untrue, may refuse to examine or license the  
 38 applicant.

39       **Sec. 2. (a)** Except as otherwise provided, individual applicants  
 40 for a license as an electrical contractor or journeyman electrician  
 41 must pass an examination. The contents of the examination must,  
 42 for each license category, test the current level of skills required of

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persons to be licensed in that category.

(b) Examinations may be conducted at times and locations the commission may prescribe.

Sec. 3. The commission or the commission's designee shall prepare and administer examinations for each license category. The subject matter to be covered and the passing grade for licensing shall be established and made known to the applicants before the date of the examination.

Sec. 4. (a) An applicant who fails the applicant's first examination for a license as an electrical contractor or journeyman electrician may be reexamined.

(b) Reexamination of an applicant who fails the examination after two (2) attempts may be conditioned on the satisfactory completion of additional study or training as prescribed by the commission.

Sec. 5. (a) An individual who is at least seventeen (17) years of age wanting to be registered by the commission as an apprentice electrician shall, on a form provided by the commission, make application for registration. The applicant shall provide to the commission a statement signed by a licensed electrical contractor or journeyman electrician who is the employer of the applicant that the prospective apprentice is the employer's employee and will work under the direct and immediate personal supervision of a licensed contractor or journeyman electrician.

(b) If the commission approves the application for registration, it shall issue a certificate of registration as an apprentice electrician to the applicant.

Sec. 6. An electrical contractor's license expires upon the death of the individual to whom it was issued.

Sec. 7. Notwithstanding section 6 of this chapter, the commission may issue a temporary electrical contractor's license to an applicant who has an ownership interest in or is an officer of a contracting business if the electrical contractor licensee operating the business has died or is physically or mentally unable to operate the business. The commission may issue the license for the period needed to dispose of the contracting business or to otherwise meet the emergency giving rise to the need for the license. However, a temporary contractor's license may not be issued for a period, including all renewals, exceeding two (2) years.

Sec. 8. Upon the payment of the required fee, an applicant who is an electrical contractor or journeyman electrician licensed or registered in another state, territory, country, or province shall

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without examination be granted a license as an electrical contractor or journeyman electrician by the Indiana electricians commission. However:

- (1) no such applicant may be granted a license in a category in which the applicant is not licensed in another state;
- (2) the individual applicant for a license as an electrical contractor or a journeyman electrician must be at least eighteen (18) years of age;
- (3) the requirements for the licensing or registration of electrical contractors or journeyman electricians in the other state, territory, country, or province were, on the date of the applicant's last registration or licensing, substantially equal to the requirements in force in Indiana; and
- (4) the same privilege of registration or licensing is accorded by the state, territory, country, or province to Indiana licensees.

Sec. 9. (a) Nonresident applicants for a license to act as an electrical contractor or journeyman electrician in Indiana shall file a written application with the commission on a form to be provided by the commission. The nonresident also shall file a certified copy of the applicant's license or certificate of registration as an electrical contractor or journeyman electrician in the applicant's resident state.

(b) A nonresident applicant to be licensed as an electrical contractor or a journeyman electrician shall file an irrevocable appointment of the secretary of the commission as the nonresident applicant's agent for service of process within Indiana.

(1) All process served upon the secretary of the commission as agent for a nonresident electrical contractor or journeyman electrician shall be served in duplicate. One (1) copy shall be filed in the office of the commission, and one (1) copy shall be forwarded to the nonresident licensee or registrant by the secretary by certified mail, return receipt requested.

(2) Service of process upon the secretary as provided in this section shall be equivalent to personal service within the state upon the nonresident licensee or registrant.

#### Chapter 7. Expiration and Renewal of License

Sec. 1. Every license or certificate of registration issued under this chapter expires two (2) years after the date of its issuance and shall be renewed biennially thereafter upon payment of the required renewal fee.

Sec. 2. Applications for renewal shall be filed with the

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commission on a form provided by the commission, not later than thirty (30) days before the expiration date of the licensee's or registrant's current license or certificate of registration. The application shall be accompanied by the required renewal fee. The commission upon receipt of the application for renewal and the required renewal fee shall issue to the renewal applicant a license or certificate of registration in the category the applicant previously held.

#### Chapter 8. Fees

Sec. 1. The fees to be charged by and paid to the commission by licensees for all licenses and license renewals shall be established by the commission under IC 25-1-8-2.

Sec. 2. (a) All fees collected by the commission shall be deposited with the treasurer of state to be deposited in the state general fund.

(b) All expenses of the commission shall be paid from the general fund upon appropriation being made in the manner provided by law.

#### Chapter 9. Rules

Sec. 1. The Indiana electricians commission may adopt rules necessary for the proper administration and enforcement of this article.

Sec. 2. (a) As used in this section, "person" means an individual, a corporation, a partnership, or other legal entity.

(b) If a person submits a written competitive bid for a project involving the:

- (1) alteration;
- (2) construction;
- (3) conversion;
- (4) improvement;
- (5) modernization;
- (6) rehabilitation;
- (7) remodeling;
- (8) renovation;
- (9) repair; or
- (10) replacement;

of electrical wiring, fixtures, and devices, and that bid is not accepted because another person knowingly violated this chapter, a person described in subsection (c) may bring a civil action to enjoin the person that violated this chapter from performing any activity under the competitive bid.

(c) The following persons may bring an action for injunctive relief under subsection (b):

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(1) The person that did not receive the bid.

(2) An organization or association that represents electricians.

**Chapter 10. Investigations, Denial, Suspension, Revocation, and Review**

**Sec. 1.** Subject to IC 25-1-7, the commission may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any action or business transaction of any licensee in accordance with IC 25-1-11. Approval by a majority of all members of the commission is required for any action to be taken.

**Sec. 2. (a)** Proceedings before the commission for the suspension or revocation of any license shall be conducted in the manner provided by IC 4-21.5-3.

**(b)** Any person aggrieved by any action of the commission in suspending or revoking the person's license or certificate of registration may seek judicial review under IC 4-21.5-5.

**(c)** Any person aggrieved by the commission's action in failing to issue or renew a license or certificate of registration may seek judicial review under IC 4-21.5-5.

**Sec. 3. (a)** The record of the commission or a duly certified copy of the record shall be admissible in any proceeding at law or in equity in any court with jurisdiction in this or any other state in which the applicant, licensee, or certificate of registration holder charged or under investigation is a party, and where the issues of an act involved in the proceeding are pertinent to the inquiry before the commission.

**(b)** The verdict of the jury or judgment of the court in any action at law or the decree of the court in any proceeding in equity constitutes prima facie evidence as to the facts at issue in the proceeding and necessarily adjudicated.

**(c)** The verdict of the court or jury in any criminal prosecution in a court of record of this or any other state in which the applicant, licensee, or certificate of registration holder charged was the defendant is conclusive as to the facts charged and at issue in such prosecution.

**Chapter 11. Violations**

**Sec. 1. (a)** A person who acts or advertises as an electrical contractor or journeyman electrician without first obtaining a license from the commission or who continues to act as an electrical contractor or journeyman electrician after the person's license has been suspended, revoked, or otherwise restricted under

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1 IC 25-1-11 commits a Class A misdemeanor.

2 (b) A person who fails to renew the person's license and  
3 continues to act as an electrical contractor or journeyman  
4 electrician after the license has expired commits a Class B  
5 misdemeanor.

6 (c) It is unlawful for an electrical contractor to fail to include  
7 one (1) of the following names on written or printed advertising for  
8 electrical services and on vehicles that are used to provide  
9 electrical services:

10 (1) The electrical contractor's name.

11 (2) The name of the business with which the electrical  
12 contractor is associated.

13 **Chapter 12. Exceptions to Application of Article**

14 **Sec. 1. This article does not apply to the following:**

15 (1) Contractors in work on bridges, roads, streets, highways,  
16 railroads, or utilities and services incidental to the work.

17 (2) An authorized employee of the United States, the state, or  
18 a political subdivision of Indiana if the employee does not  
19 profess to be for hire and is acting within the scope of the  
20 employee's employment.

21 (3) An officer appointed by a court when the officer is acting  
22 within the scope of the officer's office as defined by law or  
23 court order. When construction projects are not under way at  
24 the time of the appointment of the officer by the court and the  
25 nature of the officer's appointment requires that electrical  
26 construction must be done, the officer must employ or  
27 contract with a registered electrical contractor or  
28 journeyman electrician.

29 (4) Public utilities with respect to construction, maintenance,  
30 and development work performed by the public utility's own  
31 employees and incidental to the public utility's business.

32 (5) The owner occupant of a dwelling of eight (8) or fewer  
33 residential units when the owner occupant is installing,  
34 altering, or repairing the electrical system of the residential  
35 units.

36 (6) Construction, alteration, improvement, or repair of an  
37 electrical system located on a site the title of which is in the  
38 name of the United States, or construction, alteration,  
39 improvement, or repair on a project where federal law  
40 supersedes this article.

41 (7) An individual who is employed or acts as a maintenance  
42 person at the individual's place of employment.

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(8) Farmsteads, except for buildings built on the farmstead for the purpose of public or commercial use.

### **Chapter 13. Political Subdivisions; Power to Regulate**

**Sec. 1.** This article does not limit the power of a political subdivision to regulate the quality and character of work performed by electrical contractors through the enforcement of building codes and inspections, but a political subdivision may not require any licensee under this chapter to submit to any other form of licensing.

**Sec. 2.** A political subdivision may require a person licensed as an electrical contractor under this chapter to register with a public official of the political subdivision to allow the electrical inspection official of the political subdivision to have the records necessary to inspect the work of persons licensed under this chapter. This chapter does not prohibit any political subdivision from charging a reasonable fee for such registration.

**Sec. 3.** Failure to register as required by a political subdivision at the discretion of the commission, may constitute a basis for suspension of any electrical contractor's license issued under this article. Repeated and intentional violation of any such registration requirements may at the discretion of the commission constitute a basis for the revocation of an electrical contractor's license under IC 25-14.6-10.

### **Chapter 14. Display of License; Register Available for Public Inspection**

**Sec. 1.** An electrical contractor licensee shall prominently display the licensee's license in the licensee's principal business office. In the case of a partnership or corporation, the license of at least one (1) partner, member, or officer of the corporation, or the corporate license, must be displayed.

**Sec. 2.** The license number of a licensed electrical contractor must be recognizably displayed in all written or printed advertising for electrical services and on all vehicles that are used to provide electrical services.

**Sec. 3.** An electrical contractor, partnership, or corporation must maintain a register listing:

- (1) the name and license number of every electrical contractor currently employed by the contractor, partnership, or corporation;
- (2) the name and license number of every journeyman electrician currently employed by the contractor, partnership, or corporation; and

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(3) the name and registration number of every apprentice electrician currently employed by the contractor, partnership, or corporation.

The register must be available for public inspection upon request.

Sec. 4. An electrical contractor, journeyman electrician, or apprentice electrician shall carry a facsimile of the contractor's, journeyman electrician's, or apprentice electrician's license or certificate of registration on a job location where the person is engaged in electrical contracting or the electrical trade. The electrical contractor, journeyman electrician, or apprentice electrician shall display the contractor's, journeyman electrician's, or apprentice electrician's license or certificate of registration upon the demand of a state inspector or local building or electrical inspector in Indiana within the inspector's local jurisdiction or upon a customer's request.

#### Chapter 15. Actions Barred, Subpoena Powers, Service and Witness Fees

Sec. 1. An action may not be instituted in any court to recover compensation for electrical contracting services or wages for work done that under this article constitutes electrical contracting by a person that is not licensed or registered under this article.

Sec. 2. (a) The commission conducting a hearing in any case may subpoena and order production of books and papers. In any hearing, process issued by the commission extends to all parts of Indiana, and process shall be served either as subpoenas are served in the circuit court or by any person designated by the commission for that purpose. The person serving process shall receive the compensation allowed by the commission, not to exceed the fee prescribed by law for similar services in the circuit courts. The fees shall be paid in the same manner as provided in this chapter for fees of witnesses subpoenaed at the instance of the commission.

(b) All witnesses who are subpoenaed and who appear in a proceeding before the commission shall receive the fees and mileage allowed by law to witnesses in the circuit courts. Fees and mileage shall be paid by the party at whose instance the subpoena is issued or upon whose behalf the witness is called. Fees and mileage paid to a witness who is subpoenaed at the instance of the commission shall be paid from funds appropriated to the commission in the same manner as other expenses of the commission are paid.

(c) If in a proceeding before the commission a witness fails or refuses to appear upon subpoena issued by the commission or any



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of the commission's representatives, any circuit court may enforce the witness's appearance.

(d) If in a proceeding before the commission a witness refuses to testify or to produce records called for by subpoena, any circuit court may enforce the witness's testimony or production of records.

#### Chapter 16. Electricians Recovery Fund

Sec. 1. (a) The electricians recovery fund is established for the purpose set out in this chapter. The fund shall be administered by the commission.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund, except as provided in section 4 of this chapter.

Sec. 2. (a) If the total amount in the electricians recovery fund plus estimated revenues from the fee assessed under section 3 of this chapter from July 1 of the current year through June 30 of the next year will be less than four hundred thirty thousand dollars (\$430,000) on June 30 in an odd-numbered year after the payment of all claims and expenses, the commission shall assess a surcharge according to the following formula in order to maintain the fund at an approximate level of five hundred thousand dollars (\$500,000):

**STEP ONE:** Determine the amount remaining in the fund on June 30 of the current year after all expenses and claims have been paid.

**STEP TWO:** Add to the amount determined under STEP ONE the amount of revenue estimated from the fee assessed under section 3 of this chapter from July 1 of the current year through June 30 of the following year.

**STEP THREE:** Subtract the amount determined under STEP TWO from five hundred thousand dollars (\$500,000).

**STEP FOUR:** Determine the number of electrical contractors that had licenses in effect on June 30 of the current year.

**STEP FIVE:** Divide the number determined under STEP THREE by the number determined under STEP FOUR.

(b) The commission shall assess the surcharge described in subsection (a) against each electrical contractor that:

(1) receives an initial license; or



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(2) receives a renewal license.

(c) The commission shall assess the surcharge described in subsection (a) for the two (2) year period beginning on July 1 of the current year through June 30 of the next odd-numbered year.

(d) The surcharge assessed under this section is in addition to any other fee under this article.

Sec. 3. (a) At the time of initial licensure under this article, each licensee shall pay the following fee:

(1) Seventy-five dollars (\$75) for an electrical contractor.

(2) Thirty dollars (\$30) for a journeyman electrician.

(b) Fees collected under subsection (a) shall be placed in the electricians recovery fund.

(c) The fee assessed under this section is in addition to any other fee under this article.

Sec. 4. If the total amount in the electricians recovery fund exceeds five hundred fifty thousand dollars (\$550,000) at the end of a state fiscal year after the payment of all claims and expenses, the amount exceeding five hundred fifty thousand dollars (\$550,000) reverts to the state general fund.

Sec. 5. Any interest earned on investment of money in the electricians recovery fund shall be credited at least annually to the fund. Money may not be appropriated from the state general fund for payment of any expenses incurred under this chapter, and expenses of the electricians recovery fund may not be charged to the state.

Sec. 6. (a) If any aggrieved person obtains a final judgment in any court against any electrical contractor to recover damages for a violation under IC 25-1-11 or the electrical codes of the state (with or without a finding by the commission) that results in an actual cash loss to the aggrieved person, the person may, upon termination of all proceedings, including appeals and proceedings supplemental to judgment for collection purposes, file a verified application in the court in which the judgment was entered for an order directing payment out of the electricians recovery fund of the amount of actual and direct loss in the transaction that remains unpaid upon the judgment. The amount of actual and direct loss may include court costs but may not include attorney's fees or punitive damages awarded. The amount that may be paid from the electricians recovery fund may not exceed thirty thousand dollars (\$30,000) per judgment or a total lifetime limit of seventy-five thousand dollars (\$75,000) with respect to any one (1) licensee.

(b) This section applies only to a final judgment that awards



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1 damages for an act by the electrical contractor described in  
2 subsection (a) that arises directly out of any transaction:

- 3 (1) that occurred when the electrical contractor was licensed;  
4 (2) for which a license was required under IC 25-14.6-3; and  
5 (3) that occurred after December 31, 2003.

6 Sec. 7. (a) If the payment in full of two (2) or more pending valid  
7 claims that have been filed by aggrieved persons against a single  
8 electrical contractor would exceed the seventy-five thousand dollar  
9 (\$75,000) limit set forth in section 6 of this chapter, the seventy-five  
10 thousand dollars (\$75,000) shall be distributed among the  
11 aggrieved persons in the ratio that their respective claims bear to  
12 the total of all valid claims or in any other manner that a court of  
13 record may determine equitable. The money shall be distributed  
14 among the persons entitled to share in it without regard to the  
15 order of priority in which their respective judgments have been  
16 obtained or their claims have been filed.

17 (b) Upon petition of the commission, the court may require all  
18 claimants and prospective claimants against a single electrical  
19 contractor to be joined in one (1) action, to the end that the  
20 respective rights of all the claimants to the commission may be  
21 equitably adjudicated and settled.

22 (c) On June 30 and December 31 of each year, the commission  
23 shall identify each claim that the court orders to be paid during the  
24 six (6) month period ending that day. The commission shall pay the  
25 part of each claim that is so identified within fifteen (15) days after  
26 the end of the six (6) month period in which the claim is ordered  
27 paid. If the balance in the fund is insufficient to pay the full  
28 payable amount of each claim that is ordered to be paid during a  
29 six (6) month period, the commission shall pay a prorated part of  
30 each claim that is ordered to be paid during the period. Any part  
31 of the payable amount of a claim left unpaid due to the prorating  
32 of payments under this subsection must be paid (subject to the  
33 seventy-five thousand dollar (\$75,000) limit described in section 6  
34 of this chapter) before the payment of claims ordered to be paid  
35 during the following six (6) month period.

36 Sec. 8. Any electrical contractor that is licensed or that renews  
37 a license under this article after December 31, 2003, and upon  
38 which personal service cannot be made with reasonable diligence  
39 shall be considered to have appointed the commission as the  
40 electrical contractor's agent for service of process for purposes of  
41 actions filed under section 6 of this chapter for recovery from the  
42 electricians recovery fund. Service of process under this section

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shall be made as nearly as practicable in the manner prescribed by the Indiana Rules of Trial Procedure for service on corporations.

Sec. 9. An order for payment from the electricians recovery fund may not be issued unless the action to recover from the electricians recovery fund was commenced within two (2) years after the termination of all proceedings against the electrical contractor for a violation under IC 25-1-11 or the electrical codes of the state, including appeals and proceedings supplemental to judgment. When any person commences an action for a judgment that may result in an order for payment from the fund, the electrical contractor against which the action has been taken shall notify the commission in writing of the commencement of the action.

Sec. 10. When a person files an application for an order directing payment from the electricians recovery fund, the commission shall be made a party defendant to the proceedings. The court shall conduct a hearing on the application, and the court may issue an order directing payment from the electricians recovery fund as provided in section 11 of this chapter, subject to the limitation of section 6 of this chapter, if the court finds:

- (1) that there is no collusion between the judgment creditor and the judgment debtor;
- (2) that the judgment creditor is making application not more than one (1) year after the termination of all proceedings in connection with the judgment, including appeals and proceedings supplemental to judgment for collection purposes;
- (3) that the judgment creditor has caused to be issued a writ of execution on the judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found or that the amount realized on the sale under the execution was insufficient to satisfy the judgment;
- (4) that the judgment creditor has diligently pursued the creditor's remedies against all the judgment debtors and all other persons liable to the creditor in the transaction for which the creditor seeks recovery from the electricians recovery fund;
- (5) that a violation under IC 25-1-11 or the electrical codes of the state arose directly out of a transaction that occurred when the judgment debtor was licensed and acted in a



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capacity for which a license is required under this article, and that the transaction occurred after December 31, 2003; and (6) that, in the event of a default judgment or a judgment entered upon stipulation of the parties, the judgment debtor's acts constituted a violation under IC 25-1-11 or the electrical codes of the state.

Sec. 11. Upon a final order of the court directing that payment be made out of the electricians recovery fund, the commission, subject to sections 6 through 7 of this chapter, shall make the payment from the electricians recovery fund as provided in section 7 of this chapter.

Sec. 12. If the commission is required to make any payment from the electricians recovery fund in settlement of a claim or toward the satisfaction of a judgment under this chapter, the commission shall suspend the judgment debtor's license. The licensee is not eligible to be licensed again as either an electrical contractor or a journeyman electrician until the licensee has repaid in full the amount paid from the electricians recovery fund with interest of twelve percent (12%) per annum.

Sec. 13. When, upon order of any court, the commission has caused payment to be made from the electricians recovery fund to a judgment creditor, the commission is subrogated to the rights of the judgment creditor with respect to the amount paid.

Sec. 14. Subject to the approval of the budget agency, the commission may expend the interest earned by the electricians recovery fund for the following:

- (1) Publications that provide:
  - (A) information concerning the commission's activities and administrative rulings; and
  - (B) other educational information concerning the practice of electrical construction.
- (2) Educational programs concerning the practice of electrical construction in Indiana.

Sec. 15. (a) The office of the attorney general shall provide the staff assistance necessary to:

- (1) enable the commission to perform its duties under this chapter; and
- (2) enforce this chapter.

(b) Expenses incurred by the office of the attorney general under this section shall be paid from the electricians recovery fund.

SECTION 2. [EFFECTIVE JULY 1, 2003] (a) An individual who engages in electrical construction does not violate IC 25-14.6-4, as



1 added by this act, and may not be disciplined or sanctioned for  
 2 failure to have a license if the person obtains a permanent or  
 3 temporary electrical contractor's license or journeyman  
 4 electrician's license not later than December 31, 2003.

5 (b) This SECTION expires January 1, 2004.

6 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The commission  
 7 may waive the requirement for testing under IC 25-14.6-4, as  
 8 added by this act, and issue a temporary license as either an  
 9 electrical contractor or journeyman electrician valid for one (1)  
 10 year to any applicant who presents sufficient proof that the  
 11 applicant has performed as:

12 (1) an electrical contractor (as defined in 25-14.6-1-2); or

13 (2) a journeyman electrician (as defined in 25-14.6-1-3);

14 for at least four (4) years before December 31, 2003.

15 (b) Issuance of a temporary license under subsection (a) does  
 16 not in any way relieve the applicant from compliance with the  
 17 other provisions of this act.

18 (c) This SECTION expires June 30, 2004.

19 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this  
 20 SECTION, "commission" refers to the electricians commission  
 21 established by IC 25-14.6-2-1, as added by this act.

22 (b) Before July 1, 2003, the governor shall make the initial  
 23 appointments to the commission. Members must be appointed in  
 24 compliance with IC 25-14.6-2-2. In making an initial appointment,  
 25 the governor shall indicate the length of the term for which the  
 26 individual is appointed.

27 (c) The initial terms of office for the six (6) individuals  
 28 appointed to the commission by the governor are as follows:

29 (1) Two (2) members for a term of three (3) years.

30 (2) Two (2) members for a term of two (2) years.

31 (3) Two (2) members for a term of one (1) year.

32 (d) The initial terms begin July 1, 2003.

33 (e) A commissioner appointed in accordance with subsection (b)  
 34 who:

35 (1) is either an electrical contractor or a journeyman  
 36 electrician; and

37 (2) does not obtain the requisite license in accordance with  
 38 IC 25-14.6-3-1, as added by this act, on or before December  
 39 31, 2003;

40 shall be considered to have resigned from the board on that date,  
 41 and the governor shall fill the vacancy in accordance with  
 42 IC 25-14.6-2-2, as added by this act.

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- 1           **(f) Not later than January 1, 2004, the board shall adopt rules**
- 2           **under IC 4-22-2 to carry out this act.**
- 3           **(g) This SECTION expires July 1, 2004.**
- 4           **SECTION 5. An emergency is declared for this act.**

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